



MICHAEL P. STUPINSKI  
First Selectman

# TOWN OF ELLINGTON

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NANCY O. WAY  
Deputy First Selectman

PETER J. CHARTER  
DENNIS W. FRAWLEY  
ANN L. HARFORD  
A. LEO MILLER, JR.  
JAMES M. PRICHARD

SPECIAL MEETING  
BOARD OF SELECTMEN  
Wednesday, February 1, 2006  
Town Hall - Meeting Hall

## MINUTES

SELECTMEN PRESENT: Peter Charter, Ann Harford, James Prichard, Michael Stupinski and Nancy Way

SELECTMENT ABSENT: Dennis Frawley and A. Leo Miller

OTHERS PRESENT: EVAC: President P. Hany, M. Stillman (Consultant), J. Streiber, R. Cyr, C. Sandberg, T. Shook, K. Schulz, G. York, D. Lanier, R. Close; EVFD: Chief Varney; BOF: Chairman Pagani, R. Cleary.

### I. CALL TO ORDER:

First Selectman Stupinski called the Special Meeting of the Board of Selectmen (BOS) to order at 7:36 p.m.

### II. ELLINGTON VOLUNTEER AMBULANCE FEE FOR SERVICE POLICY:

Mr. Martin Stillman, Consultant for Ellington Volunteer Ambulance Corps (EVAC), introduced himself and addressed the BOS.

Mr. Stillman thanked the BOS for the opportunity to meet. He provided information on his background experience as a consultant, comprising over 35 years of involvement in Emergency Medical Services (EMS). He has worked for the State of CT and is familiar with statutes and regulations governing EMS. He has also been involved in EMS system design and modification. He has developed standard operating procedures for EMS organizations and has been an instructor as well.

Mr. Stillman stated that the purpose of requesting this meeting was to address the concerns of the funding mechanism between EVAC and the Town of Ellington for fees collected by EVAC for ambulance service.

At the time the Policy for Fee for Service Agreement was drawn up (in 1997) it was unknown as to how much money would be raised and how that money would affect the financial stability and operation of EVAC.

The situation has changed since 1997. The cost of providing EMS services has increased substantially. There are operational requirements effected by OSHA and other costs that were not present in 1997.

Mr. Stillman referred to a legal opinion from former Town Atty. Boyan on permitted uses of funds generated by ambulance service fees in her letter of June 10, 2005. **(Attached)**. He noted that in paragraph three Atty. Boyan states that although the 1997 document is entitled "Agreement", it was adopted as a policy and should be interpreted and implemented as such. It is not specific enough to be enforced as a contract. Also, within the same paragraph, it notes that money collected in excess of the amount set for capital reserve may be used to purchase additional equipment or to offset operating expenses. Mr. Stillman said that as the amount of money in the capital reserve is not known, it cannot be determined if there is any surplus.

Mr. Stillman stated that there has been a problem having funds allocated without EVAC approval. A \$56,000 expenditure was made to hire employees without the knowledge of EVAC committee or Board of Directors.

Mr. Stillman also felt that the wording in section 6.1 was irresolute.

EVAC does not benefit from interest that would be generated by fees collected as the funds are kept in the General Fund.

He stated that EVAC is not a town agency. It is a private non-profit (501-C) corporation. This creates confusion and there is a level of disagreement about use of funds collected. Currently, EVAC has no say in how funds are spent. Prior approval of BOS and BOF is required.

As a private corporation, EVAC should have control as to how the funds are spent. This would expedite the purchase of needed equipment. The Town would oversee how funds are used by EVAC.

The State of CT EMS Department has mandated all EMS responders be able to transmit, electronically, all calls and data. The State would provide the software, however, the EMS responders would have to purchase the computers. This requirement can be met with money available from fees collected.

Mr. Stillman said the policy, as written, is not clear. A number has never been established for capital reserve, which is the key for the success of the funds. The definition of how the funding is to be used is unclear. Mr. Stillman read Item 1, "Purpose" of the agreement **(attached)**. He said the purpose of the agreement has not been achieved. There are conflicts within the policy, as pointed out in Atty. Boyan's letter.

Some of the objectives of EVAC are as follows:

- Identify and address concerns
- Improve morale
- Control of funds of fees for service
- Two-year period following control of funds, the Town maintain budget commitment in order to track record
- Expand trust, cooperation and commitment between EVAC and Town
- Work together with Town and Fire Departments

The amount of fees collected is dependent on volume of calls. The fees collected determines the amount of support needed by the Town.

Mr. Stillman said that much has changed since 1997 including changes in statutes and policy at the State level. Revisions to the current policy agreement are needed.

Mr. Stillman thanked the Town for its support and asked if there were any questions.

Ms. Harford asked what type of organization is EVAC, if it is not considered a town agency. Mr. Stillman said EVAC is considered to be a "501 C-3 corporation", under IRS code, which is a non-profit organization. He added there are stringent requirement for that status. It is not an agency of the Town.

Mr. Stupinski stated that at the time the policy agreement was put in place, EVAC was not in favor of collecting fees for service. EVAC felt that collecting fees would take away from the sense of being a "volunteer" agency. That is the reason there was difficulty of funding items. No one knew at the time that funds collected could be in excess of capital reserve. Funds collected should be expended on medical service needs. Any excess should be made available to other emergency agencies, i.e., fire department. Mr. Stupinski was not comfortable that EVAC should have access to the funds to spend as they see fit.

Mr. Stillman said that collecting fees does not mean you are not a volunteer agency. It depends on what the money is spent on. If the money is used for the operation of the organization, it remains non-profit. Most of the money collected is through insurance companies or federal funds. Those who do not have insurance, or cannot afford a fee, do not pay. EMS must be provided by municipalities by contract or its own agency. EVAC provides this function to the Town of Ellington. EVAC should keep the money it earns. The money should not be commingled with other town funds.

Mr. Cleary stated that the Town is audited on an annual basis. All expenses can be tracked. He was certain that the Finance Officer could provide dollar amounts for any budget item. The townspeople elect a Board of Finance (BOF) and BOS to control expenditures of tax dollars. EVAC was not elected to do this. It is the BOF and BOS responsibility to maintain oversight. If EVAC is considered a separate entity, then the fire departments may also want this consideration. The Town should not allow this to happen. Townspeople entrust its elected BOF and BOS to expend funds appropriately and correctly. Restrictions placed on EVAC led to the fact that there is a \$330,000 balance of fees collected. The Town could afford to pay for an ambulance because the money is there. Mr. Cleary added that he is not opposed to revising the policy

agreement to update it, but he is opposed to removing the funds from the Town's control.

Mr. Pagani said that seven years ago no one knew how the fee policy would work out. He was disappointed, however, that EVAC felt it necessary that this issue be presented by a consultant to speak on their behalf at a Special BOS meeting. If this issue was brought forward earlier to him, the need for this meeting may not have been necessary. He stated that no one from EVAC ever approached him with their concerns that the policy agreement is not working out. He added that the ambulance building and ambulance driveway was funded solely by town funds for the benefit of EVAC. Also, EVAC has paid personnel which makes the agency a mixture of paid personnel and volunteers.

Mr. Stillman reiterated that EVAC is a private organization. The Town has no right to directly control their funds. The Town is entitled to oversee EVAC expenditures. Nowhere in the State of CT or the US do contracts provide for towns to control EMS funds. Most municipalities provide financial support to commercial providers. Funds generated are not subject to deposit and control of the government agency.

Mr. Pagani stated he will be meeting with the auditors and will get direction from them.

Mr. Charter asked if the money for fees collected can be placed in separate EVAC account so that interest earned stays with that account. Mr. Cleary said that it could be done.

Mr. Charter said he appreciates the work that EVAC is doing. He has witnessed the professionalism of EVAC and commended them for doing a fine job. He felt that all money collected from fees should stay with EVAC.

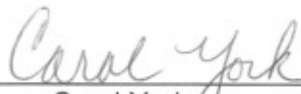
Everyone agreed that revisions to the current policy agreement are needed.

Mr. Stillman suggested that EVAC provide a draft revision of the policy agreement for BOS review. The BOS concurred. Mr. Stillman said the draft will be prepared for review no later than March 3, 2006.

### III. ADJOURNMENT:

MOVED (CHARTER), SECONDED (HARFORD) AND PASSED UNANIMOUSLY, BY THOSE PRSENT, TO ADJOURN THE MEETING OF THE BOARD OF SELECTMEN AT 9:00 P.M.

Submitted by

  
Carol York

Approved by

  
Michael P. Stupinski

COURTNEY, BOYAN & FORAN, LLC

ATTORNEYS AT LAW  
62 HYDE AVENUE  
VERNON, CONNECTICUT 06066-4503

(860) 872-7200  
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JOSEPH D. COURTNEY

SUSAN BOYAN

ELIZABETH C. FORAN

TOWN OF ELLINGTON  
RECEIVED

JUN 13 2005

FIRST SELECTMAN'S  
OFFICE

LEO B. FLAHERTY  
1923 - 1998  
ARTHUR P. MEISLER  
1945 - 2001

June 10, 2005

Dennis Milanovich  
First Selectman  
Town of Ellington  
P.O. Box 187  
Ellington, CT 06029

Dear Mr. Milanovich:

This letter is in response for your request for a legal opinion on the permitted uses for the funds generated by ambulance service fees. Specifically I was asked to review the agreement entered into by the Board of Selectmen, the Board of Finance and the Ambulance Volunteer Corps, Inc. and render an opinion as to allowable purposes for use of the funds and the proper process to be used in designating such use.

At the Board of Selectmen's meeting on January 27, 1997 a motion was made and passed to adopt a "policy for fee for service for the Ellington Volunteer Ambulance Corp as recommended by the Board of Finance pending the consent of the Ellington Volunteer Ambulance Corps." The Ambulance Corps subsequently voted to adopt the policy at its meeting on February 24, 1997. A copy of the signed documents is attached.

Although the signed document is entitled "Agreement" it was adopted as a policy and a review of it shows that it should be interpreted and implemented as a policy and is not specific enough to be enforced as a contract. The policy states that money collected from providing ambulance services was to be put in a capital reserve fund which would be used for the purchasing and replacement of ambulance vehicles and other capital equipment. Section 6.4 states that the money received in excess of the amount set for the capital reserve "may be used to purchase additional equipment necessary to the operation of the emergency ambulance service and/or to offset the annual operating budget for that service . . . ." The agreement, however, is silent as to the amount of the capital reserve. Therefore since there is no amount specified for the capital reserve it is not possible to determine if any excess funds exist for other purposes. The policy also does not specifically state who decides how the money is spent but the Ambulance Corps agreed that the money was to be under Town control, which implies that the funds are used in accordance with the usually budgetary process for all Town funds.

The policy adopted by the Town and agreed to by the Ambulance Corps sets out a framework for use of the ambulance fees but does not specify exact amounts to be reserved for capital expenditures or any excess amounts that may be used for operational expenditures. The one thing that is clear in the policy is that all fees collected are to be used for ambulance expenses. According to the Town Finance Director there is now about \$332,000 in the ambulance account. Without the policy the Ambulance Corps, as an independent corporation, may provide services, collect fees and use those fees in accordance with its by-laws and would have no obligation to turn over the fees to the Town. Likewise the Town has no obligation to fund the operational expenses of the Ambulance Corps but has done so in the past and in Section 6.5 of the policy stated that the "same budget accounts which currently exist for the FY 96-97 shall continue to be maintained and funded by the Town through the budget process as it has been funded in the past and current budgets both for the physical plant and operating expenses of the service." It is my understanding at the time the policy was adopted the Ambulance Corps was entirely staffed by volunteers and there are now two employees working full time on ambulance duties who are paid by the Town of Ellington at a cost of approximately \$90,000 for wages plus fringe benefits.

The process for use of the money in the ambulance fee fund should be the same as the process for all other budgetary matters. The Board of Finance, after consulting with the Ambulance Corps, should recommend the amount that should be set for the ambulance capital reserve fund and recommend any expenditures for capital equipment or amounts in excess of the reserve fund that may be used for other ambulance related expenses. The Board of Finance also recommends the amounts that the Town should pay for the ambulance operational expenses from other Town funds. The recommended budget then goes through the usual course of town meetings and referendums until it is adopted by the Town.

If you would like any additional information or clarification regarding this matter please let me know.

Sincerely,



Susan Boyan  
Town Attorney

Enc.



**POLICY FOR  
FEE FOR SERVICE  
ELLINGTON AMBULANCE SERVICE**

1. **PURPOSE:** The following policy is adopted by the Ellington Board of Selectmen, Board of Finance and with the consent of the Ellington Volunteer Ambulance Corps, Inc. for the purpose of implementing a fee for service program to assist in paying the costs of maintaining and operating an ambulance service and to set forth the agreements regarding the use and allocation of the fees received as well as the on-going financial commitment of the Town of Ellington to maintain this valuable service.

2. **RECOGNITION OF PRIOR STATUS:** The Town of Ellington acting jointly through its Boards of Selectmen and Finance recognize and applaud the volunteer service which the EVAC has provided to the people of Ellington and desire to facilitate the continuation of that service. The Town has done so by providing a building and quarters from which EVAC may operate and supporting the ambulance service financially through the regular budget process while intentionally leaving the management, staffing, training, qualifications and scheduling to EVAC and its dedicated members and volunteers.

3. **INDEPENDENCE OF EVAC:** The Town nor either Board intend to alter in any way the independence of EVAC as a separate corporation responsible for providing the skilled manpower needed to manage and operate a first rate volunteer ambulance service for the people of Ellington. It is recognized that EVAC has and is entitled to maintain accounts in its own name in which to hold funds derived from its own personnel, gifts which may be received from any source or the proceeds of its own fund raising activities and that EVAC is entitled to control and spend those funds for any of its own purposes including benefits for its members. It is not expected that these funds will pay for ordinary operating costs of emergency service nor to provide the equipment necessary therefore although nothing herein shall prevent the funds from being used for such purposes.

4. **NEED TO ESTABLISH USER REIMBURSEMENT PROGRAM:**  
All parties agree that in view of the total costs of providing emergency medical services to the community, it is in the best interest of those in need of service as well as the taxpayers of the Town that a fee for service be implemented to generate funds to provide up-to-date services needed and desirable to provide for patients as well as the safety of EVAC personnel.

5. ESTABLISHMENT OF FEE FOR SERVICE PROGRAM:

5.1 The Town has the legal authority to levy fees for service rendered by the Town or its contractor and audit procedures to account for the receipt and handling of public funds.

5.2 Collection should be handled by a contractor knowledgeable in insurance third party reimbursement procedures and collection law to maximize receipts and avoid liability for violations of the Fair Debt Collection Act and similar provisions.

5.3 Rates and charges should be on a schedule recommended by EVAC, after consultation with its advisors, state statutes and regulatory bodies and adopted by the Board of Selectmen which may amend that schedule from time to time as circumstances change relying primarily upon EVAC to be informed as to current rates and costs and to make recommendations to the Board of Selectmen for changes.

5.4 Collection and enforcement policy should be a Board of Selectmen decision with appropriate recommendations from both EVAC and the Board of Finance.

5.5 Any contract with a collector should be approved by the Board of Selectmen and executed by the First Selectman.

5.6 All funds should be received by the Finance Officer and remain in his custody to be allocated in a manner consistent with this policy.

6. USE OF FUNDS RECEIVED FROM COLLECTIONS:

6.1 Receipts, as projected, are not likely to fund fully the purchase of all necessary equipment and the operating budget.

6.2 All funds received should be accounted for in a separate account for all accounting and budget purposes although they may be commingled with other town funds for convenience or good financial management.

6.3 The Town, acting herein through both its Board of Selectmen and Board of Finance, hereby agree that it shall be the financial policy of the Town to establish a capital reserve fund for the purchase and replacement of ambulance vehicles and other capital equipment utilizing funds received from fee collections. A reasonable schedule and amount shall be negotiated and funds received from fees for service should first be dedicated to that sinking fund.



6.4 To the extent that funds generated exceed the amount necessary to provide the capital reserve fund set forth above, excess funds may be used to purchase additional equipment necessary to the operation of the emergency ambulance service and/ or to offset the annual operating budget for that service similar to the considerations utilized in reviewing the budgets of other fee generating services of the town such as the Library and Recreation Department

6.5 The same budget accounts which currently exist for the FY 96-97 shall continue to be maintained and funded by the Town through the budget process as it has been funded in the past and current budgets both for the physical plant and operating expenses of the service.


This policy has been adopted by the three entities after discussion and negotiation and is set forth herein to record the results of these discussions as this new policy is implemented and to make it clear to the public and members of each entity what agreements have been reached and will be followed.

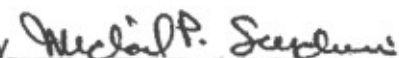
EVAC has caused this Policy to be signed by its President who has been duly authorized to agree and sign on its behalf.

The Board of Finance has approved this Policy, a copy of said Minutes is attached hereto and authorizes this policy to be signed by its Chairman.

The Board of Selectmen has approved this Policy, a copy of said Minutes is attached hereto and authorizes this policy to be signed by the First Selectman.

This policy is being signed in triplicate, each of which shall be deemed an original policy statement.

By   
Michael P. Stupinski,  
First Selectman

By   
Michael P. Scudieri, Chairman  
Board of Finance

By   
Peter Hany,  
Ellington Volunteer  
Ambulance Corp.